

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

RICK CASEY,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL NO. 09-800-GPM
)	
VILLAGE OF CASEYVILLE and GEORGE)	
CHANCE,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

MURPHY, District Judge:

Plaintiff filed this action under 42 U.S.C. § 1983 asserting claims pertaining to his former position with the Village of Caseyville as TIF (tax increment financing) administrator. He alleges retaliation in violation of his free speech rights. Defendant Village of Caseyville (the Village) seeks leave to file a counterclaim (Doc. 9). Plaintiff does not oppose the motion. However, upon careful review of the proposed counterclaim submitted by the Village, the Court notes that the Village seeks leave to add an additional party.

In Counts 1 through 4 of the proposed counterclaim, the Village alleges breach of fiduciary duty, conversion, unjust enrichment, and negligent spoliation of evidence against Plaintiff. These are compulsory counterclaims under Federal Rule of Civil Procedure 13(a). But in Counts 5 and 6 of the proposed counterclaim, the Village alleges negligent spoliation of evidence and breach of fiduciary duty against non-party Rick Casey, Jr., who is Plaintiff's son.

Rule 13(h) provides that the addition of a person as a party to a counterclaim is governed by

Rules 19 and 20. The Village has not made any showing that Rick Casey, Jr., is a necessary party under Rule 19 or may be permissively joined under Rule 20. Nor has the Village shown that Rick Casey “is or may be liable to it for all or part of the claim against it” as required to bring a third party claim. *See* FED. R. CIV. P. 14(a)(1). For these reasons, the motion (Doc. 9) is **GRANTED in part and DENIED in part**. The Village is granted until March 16, 2010, to electronically file its counterclaims against Plaintiff; the Village may not proceed at this time on its claims against Rick Casey, Jr.

IT IS SO ORDERED.

DATED: 03/02/10

s/ *G. Patrick Murphy*
G. PATRICK MURPHY
United States District Judge